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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,920	09/23/2003	Kris Oprisko	20019.03	6544

7590

07/07/2005

The Law Office of Steven G. Roeder  
5560 Chelsea Avenue  
La Jolla, CA 92037

EXAMINER
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MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/670,920

Applicant(s)

OPRISKO, KRIS

Examiner

Vishu K. Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-23, 25-28, 30, 31, 45-47, 49-55 and 62-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19, 25-28, 30, 31, 49-55 and 69-73 is/are allowed.
- 6) ☒ Claim(s) 20-23, 45-47, 62, 67, 68, 74-77 and 80 is/are rejected.
- 7) ☒ Claim(s) 63-66, 78 and 79 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. Claims 62, 20-23,45-47,67,68,74-77,80 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Teunenbroek in *view of Barlow (5240255)*.

Claims 62,45,67,74-77: Teunenbroek teaches providing a plurality of game pieces and a playing board (4:31-34) including a first game piece (1), a second game piece (2), having deformable keys (10.10'), method of engaging game pieces and deforming one of the pieces (1:22-29), *further suggesting that such game pieces are collector's items inherently suggesting each collector having plurality of such pieces.*

Teunenbroek teaches all limitations except that it does not expressly teach *players 1moving on a game surface* having designated positions.

Teunenbroek does however teach that the apparatus can be used in various games and competitions (4:9-11) for commercial purposes, providing a playing board (4:33), and for use in games (1:1-3).

*Barlow teaches a method of playing having steps of moving on designated positions of a playing surface, landing on same designated position, deforming an opponent playing piece and removing game piece from the playing surface.*

*Board games have amusement values and they are extensively used in promoting game articles. With respect to claimed method steps the examiner takes the position that these steps are commonly known in the art area and present in many board games.*

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*Board games are known to promote collector's items such as game pieces by providing them in a kit with board game to attract players.*

*In order to make the kit attractive to players, it would have been obvious to provide collector's game pieces for playing a board game.*

*One of ordinary skill in art at the time the invention was made would have suggested providing collector's game pieces in game kit for using in a board game like game.*

*Claims 20-23,46-47: Teunenbroek teaches two players engaging their pieces and moving relative to one another and deforming one of the pieces. The once-only snap (1:62) coupling demonstrates a temporary deformation prior to a permanent deformation.*

*Claim 45: With respect to central row being centrally positioned, Barlow surface has at least two spaces that can be treated as placed in the central area. In the absence of any criticality in the location of space in the claim, it would have been obvious to place spaces for aesthetic reasons.*

*Claim 68, 80: Barlow teaches placing pieces on start space can be broadly treated as arranging game pieces at the commencement of the game. In order to play the board game it would have been obvious to arrange game pieces on the surface.*

*Applicant might argue that some of applicant's claims provide a set of playing pieces.*

*Whereas some players like to play a game of short duration others like to play a game that takes longer to finish. In order to make a game last longer for those players, it would have been obvious to use multiple game pieces.*

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One of ordinary skill in art at the time the invention was made would have suggested providing multiple pieces to last the game longer.

***Allowable Subject Matter***

2. Claims 69, 25-28,70-71,72,19,30-31,49-55,73 allowed.
3. Claims 63-66,78-79 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to claims 62, 20-23,45-47,67,68,74-77,80 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKM  
June 29, 2005